



Atty. Dkt. No. 029318-0999

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Evan GUSTOW et al.  
Title: NANOPARTICULATE  
TOPIRAMATE FORMULATIONS  
Appl. No.: 10/766,960  
Filing Date: 1/30/2004  
Examiner: Konata M. George  
Art Unit: 1616  
Confirmation Number: 2511

**TERMINAL DISCLAIMER**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Petitioner, Elan Pharma International, Ltd., having its principal place of business at Treasury Building, Lower Grand Canal Street, Dublin 2, , Ireland , represents that it is the owner of the entire right, title, and interest in and to U.S. Patent Application No. 10/766,960, filed January 30, 2004, by virtue of an Assignment filed and recorded on August 16, 2004, at Reel/Frame 015063/0188, in the United States Patent and Trademark Office.

Further, your Petitioner represents that it is the owner of U.S. Patent Application No. 10/619,539, filed July 16, 2003, by virtue of an Assignment filed and recorded on August 18, 2004, on Reel/Frame 015072/0837, in the United States Patent and Trademark Office, as recorded in the Patent Assignment Abstract of Title on the USPTO web site.

Your Petitioner, Elan Pharma International, Ltd., hereby disclaims the terminal part of the term of any patent granted on U.S. Patent Application No. 10/766,960 which

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would extend beyond the full statutory term, as shortened by any terminal disclaimer, of any patent granted on U.S. Patent Application No. 10/619,539, and hereby agrees that any patent so granted on U.S. Patent Application No. 10/766,960 shall be enforceable only for and during such period that the legal title to any patent granted on U.S. Patent Application U.S. Patent Application No. 10/619,539 shall be the same as the legal title to any patent granted on U.S. Patent Application No. 10/766,960, this agreement to run with any patent granted on U.S. Patent Application No. 10/766,960 and to be binding upon the grantee, its successors or assigns.

In making the above disclaimer, Petitioner does not disclaim any terminal part of any patent granted on U.S. Patent Application No. 10/766,960, prior to the full statutory term of any patent granted on U.S. Patent Application No. 10/619,539 as defined in 35 U.S.C. §§154-156 and 173, in the event that any patent granted on U.S. Patent Application No. 10/619,539 expires for failure to pay a maintenance fee, is held unenforceable or is found invalid in a final judgment by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR §1.321(a), has all claims canceled by a reexamination certificate or as a result of an interference proceeding, or is otherwise not deemed to provide the rights conveyed by 35 USC §154, prior to the full statutory term of any patent granted on U.S. Patent Application No. 10/619,539 as defined in 35 USC §§154-156 and 173, except for the separation of legal title stated above. Further, Petitioner does not disclaim any terminal part of a patent granted on U.S. Patent Application 10/766,960 that would extend beyond the present termination of any patent granted on U.S. Patent Application No. 10/619,539, in the event that such present term is extended by virtue of compliance with the conditions for term extension of any present or future patent term extension provisions of the patent law, including but not limited to 35 U.S.C. §§155, 155A or 156, and without waiving Petitioner's right to extend the term of a patent granted on U.S. Patent Application 10/766,960 to the extent provided by law.

The undersigned, being the Attorney of Record for U.S. Patent Application 10/766,960, and duly authorized to act on behalf of Petitioner, certifies that she has reviewed the Assignments attached as APPENDICES A and B, and to the best of her knowledge and

belief, legal title to U.S. Patent Application 10/766,960 and any patent granted on U.S. Patent Application No. 10/619,539 rests with Petitioners, Elan Pharma International, Ltd.

The undersigned declares that all statements made herein of her own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-identified application or any patent issuing therefrom.

Respectfully submitted,

Date May 3, 2007

By Michele M. Simkin

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Patent No. 6,592,903. In addition, Petitioner hereby agrees that any patent so granted on U.S. Patent Application No. 10/766,960 shall be enforceable only for and during such period that the legal title to U.S. Patent No. 6,592,903 shall be the same as the legal title to any patent granted on U.S. Patent Application No. 10/766,960, this agreement to run with any patent granted on U.S. Patent Application No. 10/766,960 and to be binding upon the grantee, its successors, or assigns.

In making this disclaimer, Petitioner does not disclaim any terminal part of any patent granted on U.S. Patent Application No. 10/766,960, prior to the full statutory term of U.S. Patent No. 6,592,903 as defined in 35 U.S.C. §§ 154-156 and 173, in the event that U.S. Patent No. 6,592,903 expires for failure to pay a maintenance fee, is held unenforceable or is found invalid in a final judgment by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321(a), has all claims canceled by a reexamination certificate or as a result of an interference proceeding, or is otherwise not deemed to provide the rights conveyed by 35 U.S.C. § 154, prior to the full statutory term of U.S. Patent No. 6,592,903 as defined in 35 U.S.C. §§ 154-156 and 173, except for the separation of legal title stated above.

Further, Petitioner does not disclaim any terminal part of a patent granted on U.S. Patent Application No. 10/766,960 that would extend beyond the present termination of U.S. Patent No. 6,592,903, in the event that such present term is extended by virtue of compliance with the conditions for term extension of any present or future patent term extension provisions of the patent law, including but not limited to 35 U.S.C. §§ 155, 155A, or 156, and without waiving Petitioner's right to extend the term of a patent granted on U.S. Patent Application No. 10/766,960 to the extent provided by law.

The undersigned, being the Attorney of Record for U.S. Patent Application No. 10/766,960, and duly authorized to act on behalf of Petitioner, Elan Pharma International, Ltd., certifies that she has reviewed the Assignments attached as APPENDICES A and B, and to the best of her knowledge and belief, legal title to U.S. Patent Application No. 10/766,960 and U.S. Patent No. 6,592,903 rests with Petitioner.

The undersigned declares that all statements made herein of her own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the

like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-identified application or any patent issuing therefrom.

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